

AMENDED IN ASSEMBLY AUGUST 19, 2002

AMENDED IN ASSEMBLY JUNE 18, 2002

AMENDED IN SENATE MAY 2, 2002

**SENATE BILL**

**No. 1952**

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**Introduced by Senator Figueroa**

**(Coauthors: Senators Johannessen and Polanco)**

(Coauthors: Assembly Members Aanestad, Correa, and Thomson)

February 22, 2002

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An act to amend Sections 144, 473.1, 9607, 9663, 9731, 9747, 9765, and 9786 of, and to add Sections 7612, 7746, 9605.1, 9605.2, 9610, 9723, 9723.1, 9723.2, 9750.5, 9764.1, ~~and~~ 9764.2, 9764.3, 9787.2, 9787.3, *and* 9784.4 to, the Business and Professions Code, relating to professions and vocations, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1952, as amended, Figueroa. Cemetery and Funeral Bureau.

Existing law creates a Joint Legislative Sunset Review Committee and authorizes it to review and evaluate various boards and commissions having duties and responsibilities relating to professions and occupations.

This bill would provide for the committee review and evaluations of the Cemetery and Funeral Bureau in the Department of Consumer Affairs.

Existing law provides for the regulation of funeral establishments, embalmers, cemeteries, and crematories by the Cemetery and Funeral Bureau in the Department of Consumer Affairs. Existing law requires a cemetery authority to display and make available to certain consumers a copy of the consumer guide for funeral and cemetery purchases.

The bill would require a cemetery authority or a cemetery licensee to provide a copy of the consumer guide to a consumer prior to drafting a contract for cemetery goods or services.

Existing law requires a person who is delinquent in renewing a cemetery license or a crematory license or a cremated remains disposer registration to pay the fee plus an additional 50% of the renewal fee, but no more than the renewal fee plus \$25.

This bill would set the delinquency fee at 150% of the timely fee, but not less than the renewal fee plus \$25.

Existing law regulates preneed contracts for funeral services, and requires a funeral establishment to file an annual report with the bureau.

This bill would require a funeral establishment that is exempt from filing an annual report or whose preneed trust funds are reported in a combined preneed trust report, to file a declaration of nonreporting status each year.

The bill would require the bureau to conduct a study on the need to regulate 3rd-party casket retailers and report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004.

Existing law provides for the examination of applicants for a cemetery license or a crematory license by the bureau.

~~The~~

*This bill would define a cemetery manager and a crematory manager. The bill would require a licensed cemetery to employ a cemetery manager to manage, direct, and supervise the cemetery and would require a crematory to employ a crematory manager to manage, direct, and supervise the crematory. The bill would require, among other things, a licensed cemetery manager and a licensed crematory manager to be at least 18 years of age and a resident of the state. The bill would provide that the fee for a crematory manager examination and reexamination shall be no more than \$500, and that the fee for a cemetery manager examination and reexamination shall be no more than \$900. The bill would additionally provide specified fees for the licensure and renewal of a crematory manager and a cemetery manager. The bill would provide that the fee for changing the name of a designated manager shall not be more than \$50. Because these items would lead to an increase in fees being deposited into the Cemetery Fund, which is continuously appropriated, the bill would make an appropriation.*



Because a violation of the provisions regulating funeral establishments is a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 144 of the Business and Professions  
2 Code is amended to read:  
3 144. (a) Notwithstanding any other provision of law, an  
4 agency designated in subdivision (b) shall require an applicant to  
5 furnish to the agency a full set of fingerprints for purposes of  
6 conducting criminal history record checks. Any agency  
7 designated in subdivision (b) may obtain and receive, at its  
8 discretion, criminal history information from the Department of  
9 Justice and the United States Federal Bureau of Investigation.  
10 (b) Subdivision (a) applies to the following boards or  
11 committees:  
12 (1) California Board of Accountancy.  
13 (2) State Athletic Commission.  
14 (3) Board of Behavioral Sciences.  
15 (4) Court Reporters Board of California.  
16 (5) State Board of Guide Dogs for the Blind.  
17 (6) California State Board of Pharmacy.  
18 (7) Board of Registered Nursing.  
19 (8) Veterinary Medical Board.  
20 (9) Registered Veterinary Technician Committee.  
21 (10) Board of Vocational Nursing and Psychiatric Technicians.  
22 (11) Respiratory Care Board of California.  
23 (12) Hearing Aid Dispensers Advisory Commission.  
24 (13) Physical Therapy Board of California.  
25 (14) Physician Assistant Committee of the Medical Board of  
26 California.

1 (15) Speech-Language Pathology and Audiology Board.  
2 (16) Medical Board of California.  
3 (17) State Board of Optometry.  
4 (18) Acupuncture Board.  
5 (19) Cemetery and Funeral Bureau.  
6 (20) Bureau of Security and Investigative Services.  
7 (21) Division of Investigation.  
8 (22) Board of Psychology.  
9 (23) The California Board of Occupational Therapy.  
10 SEC. 2. Section 473.1 of the Business and Professions Code  
11 is amended to read:  
12 473.1. This division shall apply to all of the following:  
13 (a) Every board, as defined in Section 22, that is scheduled to  
14 become inoperative and to be repealed on a specified date as  
15 provided by the specific act relating to the board.  
16 (b) The Bureau for Postsecondary and Vocational Education.  
17 For purposes of this division, “board” includes the bureau.  
18 (c) The Cemetery and Funeral Bureau.  
19 SEC. 3. Section 7612 is added to the Business and Professions  
20 Code, to read:  
21 7612. The bureau shall do all of the following:  
22 (a) Conduct a comprehensive study of the need to regulate  
23 third-party casket retailers.  
24 (b) Report to the department and the Joint Legislative Sunset  
25 Review Committee on or before September 1, 2004, on the matter.  
26 SEC. 4. Section 7746 is added to the Business and Professions  
27 Code, to read:  
28 7746. (a) Notwithstanding any other provision of law, a  
29 funeral establishment that is otherwise exempt from the  
30 requirement of filing an annual preneed trust report or whose  
31 preneed trust funds are reported in a combined preneed annual  
32 preneed trust report, shall annually file a declaration of  
33 nonreporting status with the bureau.  
34 (b) The declaration shall be filed on or before May 1 of each  
35 year and shall also be filed upon the transfer of ownership or the  
36 cessation of business.  
37 (c) The declaration shall be filed on a form provided by the  
38 bureau and shall include, but shall not be limited to, both of the  
39 following:



(1) The basis upon which the funeral establishment is exempt from the annual trust reporting requirement.

(2) The specific kind and nature of the exempt preneed arrangements, if any, in which the funeral establishment engages.

(d) The declaration shall be verified by the funeral establishment's owner, a partner, or in the case of a corporation, by the president or vice president.

SEC. 5. *Section 9605.1 is added to the Business and Professions Code, to read:*

9605.1. *A cemetery manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, operating, or improving a cemetery licensed under this chapter, the interring of human remains, and the care, preservation, and embellishment of cemetery property.*

SEC. 6. *Section 9605.2 is added to the Business and Professions Code, to read:*

9605.2. *A crematory manager is a person engaged in or conducting, or holding himself or herself out as engaged in those activities involved in, or incidental to, the maintaining, or operating a crematory licensed under this chapter, and the cremation of human remains.*

SEC. 7. *Section 9607 of the Business and Professions Code is amended to read:*

9607. *"Cemetery licensee" means any cemetery broker or cemetery salesman, cemetery salesperson, or cemetery manager.*

SEC. 8. *Section 9610 is added to the Business and Professions Code, to read:*

9610. The bureau shall do both of the following:

(a) Conduct a comprehensive study of the need for the regulation of proprietary employees of religious corporations, churches, religious societies, and religious denominations.

(b) Report to the department and the Joint Legislative Sunset Review Committee on or before September 1, 2004, on the matter specified in subdivision (a).

~~SEC. 6.~~

SEC. 9. *Section 9663 of the Business and Professions Code is amended to read:*

9663. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer

1 guide for funeral and cemetery purchases for purposes of  
2 reproduction and distribution. The funeral and cemetery guide that  
3 is approved by the bureau, in consultation with the funeral and  
4 cemetery industries and any other interested parties, shall be made  
5 available in printed form and electronically through the Internet.

6 (b) A cemetery authority shall prominently display and make  
7 available to any individual who, in person, inquires about funeral  
8 or cemetery purchases, a copy of the consumer guide for funeral  
9 and cemetery purchases, reproduced as specified in subdivision

10 (a).

11 (c) Prior to drafting a contract for cemetery goods or services,  
12 the cemetery authority or cemetery licensee shall provide to the  
13 consumer, for retention, a copy of the consumer guide for funeral  
14 and cemetery purchases specified.

15 ~~SEC. 7.~~

16 *SEC. 10. Section 9723 is added to the Business and*  
17 *Professions Code, to read:*

18 *9723. A cemetery licensed under this chapter shall at all times*  
19 *employ a licensed cemetery manager to manage, supervise, and*  
20 *direct its operations.*

21 *(a) Every cemetery shall designate a licensed cemetery*  
22 *manager to manage the cemetery, and shall report the designation*  
23 *to the bureau within 10 days of the effective date. Any change in*  
24 *the designated manager shall be reported to the bureau within 10*  
25 *days.*

26 *(b) The designated cemetery manager shall be responsible for*  
27 *exercising direct supervision and control over the operations,*  
28 *employees, and agents of the cemetery as is necessary to ensure full*  
29 *compliance with the applicable provisions of the Business and*  
30 *Professions Code, the Health and Safety Code, and any*  
31 *regulations adopted thereto. Failure of the designated cemetery*  
32 *manager or the licensed cemetery to exercise that supervision or*  
33 *control shall constitute a ground for disciplinary action.*

34 *(c) A cemetery may employ, in addition to the designated*  
35 *cemetery manager, additional licensed cemetery managers.*  
36 *However, only one licensed cemetery manager may be appointed*  
37 *as the designated cemetery manager of the cemetery.*

38 *SEC. 11. Section 9723.1 is added to the Business and*  
39 *Professions Code, to read:*

1 9723.1. (a) Application for a cemetery manager license shall  
2 be made in writing on the form provided by the bureau, verified by  
3 the applicant, and filed at the principal office of the bureau. The  
4 application shall be accompanied by the fee fixed by this chapter.

5 (b) The applicant for a cemetery manager license shall be at  
6 least 18 years of age, possess a high school diploma or its  
7 equivalent, shall not have committed acts or crimes constituting  
8 grounds for denial of licensure under Section 480, shall  
9 demonstrate compliance with the training and experience  
10 requirements established by the bureau, and shall be a resident of  
11 this state.

12 (c) The bureau shall grant a cemetery manager license to any  
13 applicant who meets the requirements of this chapter and who has  
14 successfully passed the cemetery manager examination  
15 administered by the bureau.

16 (d) Notwithstanding subdivision (c), until July 1, 2004, the  
17 bureau shall grant a cemetery manager license to any applicant  
18 who meets the requirements of this chapter and can demonstrate  
19 that he or she has, prior to January 1, 2003, successfully passed  
20 the cemetery manager examination administered by the bureau.  
21 Any person who is eligible to obtain a cemetery manager license  
22 under this subdivision and who does not apply for a license by July  
23 1, 2004, shall apply for and successfully pass the examination.

24 SEC. 12. Section 9723.2 is added to the Business and  
25 Professions Code, to read:

26 9723.2. (a) No person shall engage in or conduct, or hold  
27 himself or herself out as engaging in or conducting, the activities  
28 of a cemetery manager without holding a valid, unexpired  
29 cemetery manager license issued by the bureau.

30 (b) No licensed cemetery manager shall engage in or conduct,  
31 or hold himself or herself out as engaging in or conducting, the  
32 activities of a cemetery manager without being employed by, or  
33 without being a corporate officer of a licensed cemetery.

34 SEC. 13. Section 9731 of the Business and Professions Code  
35 is amended to read:

36 9731. If a person fails to apply for a license renewal, no  
37 renewal license shall be issued except upon payment of the  
38 delinquent renewal fee required under Section 9750.5.

39 No person who fails to renew his or her license within one year  
40 of the expiration date can engage in any of the activities authorized



1 by a license unless he or she first files the application required for  
2 an original license, pays the original license fee, and otherwise  
3 complies with all of the provisions of this act pertaining to the  
4 issuance of an original license.

5 ~~SEC. 8.~~

6 *SEC. 14.* Section 9747 of the Business and Professions Code  
7 is amended to read:

8 9747. If a person fails to apply for renewal of his or her  
9 cremated remains disposer registration prior to midnight of  
10 September 30th of the year for which the registration was issued,  
11 no renewal shall be issued except upon payment of the delinquent  
12 renewal fee required under Section 9750.5.

13 ~~SEC. 9.~~

14 *SEC. 15.* Section 9750.5 is added to the Business and  
15 Professions Code, to read:

16 9750.5. The delinquent renewal fee for a license, registration,  
17 or certificate of authority under this chapter shall be 150 percent  
18 of the timely fee, but not less than the renewal fee plus twenty-five  
19 dollars (\$25).

20 ~~SEC. 10.~~

21 *SEC. 16.* Section 9764.1 is added to the Business and  
22 Professions Code, to read:

23 9764.1. (a) The fee for a crematory manager examination  
24 and reexamination may not exceed five hundred dollars (\$500).

25 (b) *The license fee to obtain a crematory manager license may*  
26 *not exceed one hundred dollars (\$100).*

27 (c) *The renewal fee for a crematory manager license may not*  
28 *exceed one hundred dollars (\$100).*

29 ~~SEC. 11.~~

30 *SEC. 17.* Section 9764.2 is added to the Business and  
31 Professions Code, to read:

32 9764.2. (a) The fee for a cemetery manager examination and  
33 reexamination may not exceed nine hundred dollars (\$900).

34 ~~SEC. 12.~~

35 (b) *The license fee to obtain a cemetery manager license may*  
36 *not exceed one hundred dollars (\$100).*

37 (c) *The renewal fee for a cemetery manager license may not*  
38 *exceed one hundred dollars (\$100).*

39 *SEC. 18.* Section 9764.3 is added to the Business and  
40 Professions Code, to read:



1     9764.3. *The fee for filing a report of a change of designated*  
2 *manager shall not exceed fifty dollars (\$50).*

3     SEC. 19. Section 9765 of the Business and Professions Code  
4 is amended to read:

5     9765. Every cemetery authority operating a cemetery shall  
6 pay an annual regulatory charge for each cemetery to be fixed by  
7 the bureau at not more than four hundred dollars (\$400). In  
8 addition to an annual regulatory charge for each cemetery, an  
9 additional quarterly charge of not more than eight dollars and fifty  
10 cents (\$8.50) for each burial, entombment, or inurnment, ~~and not~~  
11 ~~more than eight dollars and fifty cents (\$8.50) for each cremation~~  
12 ~~made during the preceding quarter shall be paid to the department~~  
13 ~~until December 31, 2007, to the bureau~~ and these charges shall be  
14 deposited in the Cemetery Fund. If the cemetery authority  
15 ~~performed the cremation and either the performs a~~ burial,  
16 entombment, or inurnment, ~~and the cremation was performed at~~  
17 ~~a crematory located on the grounds of the cemetery and under~~  
18 ~~common ownership with the cemetery authority,~~ the total of all  
19 additional charges shall be not more than eight dollars and fifty  
20 cents (\$8.50).

21     ~~SEC. 13.~~

22     SEC. 20. Section 9786 of the Business and Professions Code  
23 is amended to read:

24     9786. Every crematory licensee operating a crematory  
25 pursuant to a license issued in compliance with this article shall  
26 pay an annual regulatory charge for each crematory, to be fixed by  
27 the bureau at not more than four hundred dollars (\$400). In  
28 addition to an annual regulatory charge for each crematory, every  
29 licensee operating a crematory pursuant to a license issued  
30 pursuant to this article shall pay *until December 31, 2007*, an  
31 additional charge of not more than eight dollars and fifty cents  
32 (\$8.50) per cremation made during the preceding quarter, which  
33 charges shall be deposited in the Cemetery Fund.

34     ~~SEC. 14.~~

35     SEC. 21. *Section 9787.2 is added to the Business and*  
36 *Professions Code, to read:*

37     9787.2. *A crematory shall at all times employ a licensed*  
38 *crematory manager to manage, supervise, and direct its*  
39 *operations.*

1 (a) Every crematory shall designate a licensed crematory  
2 manager to manage the crematory, and shall report the  
3 designation to the bureau within 10 days of the effective date. Any  
4 change in the designated manager shall be reported to the bureau  
5 within 10 days.

6 (b) The designated crematory manager shall be responsible for  
7 exercising direct supervision and control over the operations,  
8 employees, and agents of the crematory as is necessary to ensure  
9 full compliance with the applicable provisions of the Business and  
10 Professions Code, the Health and Safety Code, and any  
11 regulations adopted thereto. Failure of the designated crematory  
12 manager or the licensed crematory to exercise that supervision or  
13 control shall constitute a ground for disciplinary action.

14 (c) A crematory may employ, in addition to the designated  
15 crematory manager, additional licensed crematory managers.  
16 However, only one licensed crematory manager may be appointed  
17 as the designated crematory manager of the crematory.

18 SEC. 22. Section 9787.3 is added to the Business and  
19 Professions Code, to read:

20 9787.3. (a) Application for a crematory manager license  
21 shall be made in writing on the form provided by the bureau,  
22 verified by the applicant and filed at the principal office of the  
23 bureau. The application shall be accompanied by the fee fixed by  
24 this chapter.

25 (b) The applicant for a crematory manager license shall be at  
26 least 18 years of age, possess a high school diploma or its  
27 equivalent, shall not have committed acts or crimes constituting  
28 grounds for denial of licensure under Section 480, shall  
29 demonstrate compliance with the training and experience  
30 requirements established by the bureau, and shall be a resident of  
31 this state.

32 (c) The bureau shall grant a crematory manager license to any  
33 applicant who meets the requirements of this chapter and who has  
34 successfully passed the crematory manager examination  
35 administered by the bureau.

36 (d) Notwithstanding subdivision (c), until July 1, 2004, the  
37 bureau shall grant a crematory manager license to any applicant  
38 who meets the requirements of this chapter and can demonstrate  
39 that he or she has, prior to January 1, 2003, successfully passed  
40 the crematory manager examination administered by the bureau.

1 *Any person who is eligible to obtain a crematory manager license*  
2 *under this subdivision and who does not apply for a license by July*  
3 *1, 2004, shall apply for and successfully pass the examination.*

4 *SEC. 23. Section 9787.4 is added to the Business and*  
5 *Professions Code, to read:*

6 *9787.4. (a) No person shall engage in or conduct, or hold*  
7 *himself or herself out as engaging in or conducting, the activities*  
8 *of a crematory manager without holding a valid, unexpired*  
9 *crematory manager license issued by the bureau.*

10 *(b) No licensed crematory manager shall engage in or conduct,*  
11 *or hold himself or herself out as engaging in or conducting, the*  
12 *activities of a crematory manager without being employed by, or*  
13 *without being a sole proprietor, partner, or corporate officer of, a*  
14 *licensed crematory.*

15 *SEC. 24. No reimbursement is required by this act pursuant*  
16 *to Section 6 of Article XIII B of the California Constitution*  
17 *because the only costs that may be incurred by a local agency or*  
18 *school district will be incurred because this act creates a new crime*  
19 *or infraction, eliminates a crime or infraction, or changes the*  
20 *penalty for a crime or infraction, within the meaning of Section*  
21 *17556 of the Government Code, or changes the definition of a*  
22 *crime within the meaning of Section 6 of Article XIII B of the*  
23 *California Constitution.*

